THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 19810 OF 2006

Dated: 22nd September, 2006.

Between :

K. Hampaiah Swamy

.. Petitioner

And

The Deputy Transport Commissioner & Secretary,
Regional Transport Authority, Kurnool and
Another.

.. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.19810 OF 2006

ORDER :

This writ petition is filed seeking a declaration that the order passed by the 1st respondent, dated 13-7-2006 calling upon the petitioner to pay compounding fee of Rs.2,56,700/- under Section 200 of the Motor Vehicles Act, 1988 as arbitrary and illegal.

I have heard the learned Counsel for both the parties and perused the material on record.

The learned Counsel for the petitioner at the outset submitted that the issue raised in this writ petition is squarely covered by the decision of this Court in ***M. MURALIDHAR REDDY v. DEPUTY TRANSPORT COMMISSIONER AND SECRETARY, RTA, KURNOOL***[1].

In the said decision, having considered all the relevant statutory provisions in detail particularly Section 114 of the Motor Vehicles Act, 1988 and Rule 286 of A.P. Motor Vehicles Rules, 1989 held that the finding as to overload recorded by an unauthorised officer cannot be the basis for initiating action for compounding the offence under the Act and the Rules.

The learned Government Pleader does not dispute the fact that the ratio laid down in the said decision squarely applies to the case on hand.

Since admittedly in the case on hand, no independent enquiry was conducted by the 1st respondent before passing the impugned

order, following the above decision, the impugned order is set aside.

Accordingly, the Writ Petition is allowed. No costs.

G. ROHINI, J.

Dt. 22-09-2006

KLP

[1] 2003 (5) ALD 1